

ELLEN F. ROSENBLUM
Attorney General
MICHELLE ENFIELD #152293
Senior Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
Telephone: (503) 947-4700
Fax: (503) 947-4791
Email: michelle.enfield@doj.oregon.gov

Attorneys for Defendant Ryan Lufkin

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JEREMIAH COOK, an individual,

Plaintiff,

v.

TEQUILA THURMAN in her individual
capacity, CARRIE HUTCHINSON in her
individual capacity, and RYAN LUFKIN in
his individual capacity,

Defendants.

Case No. 3:24-cv-01481-AB

DEFENDANT RYAN LUFKIN'S ANSWER
AND AFFIRMATIVE DEFENSES TO FIRST
AMENDED COMPLAINT

Defendant Ryan Lufkin, by and through his attorney Michelle Enfield, Senior Assistant Attorney General, in response to Plaintiff's First Amended Complaint, admits, denies, and alleges as follows. Defendant Lufkin denies each and every allegation of Plaintiff's Amended Complaint not expressly admitted herein.

1.

The allegations in paragraph 1 are conclusory and do not require a response. To the extent a response is necessary, Defendant Lufkin denies.

2.

Defendant Lufkin has insufficient knowledge or information to admit or deny and therefore denies the allegations in paragraphs 2, 6-23, 26, 30, 34, and 35.

3.

Defendant Lufkin admits the allegation in paragraph 3 that Tequila Therman was employed as a law enforcement officer with the Portland Police Bureau. Defendant Lufkin has insufficient information to admit or deny the remaining allegations in paragraph 3 and therefore denies the same.

4.

Defendant Lufkin admits the allegation in paragraph 4 that Carrie Hutchinson was employed as a law enforcement officer with the Portland Police Bureau. Defendant Lufkin has insufficient information to admit or deny the remaining allegations in paragraph 4 and therefore denies the same.

5.

Defendant Lufkin admits he was a deputy district attorney employed by the Multnomah County District Attorney's Office but denies the other allegations in paragraph 5.

6.

Defendant Lufkin denies the allegations in paragraph 24.

7.

Defendant Lufkin admits that he put a note in the prosecution file but denies all other allegations in paragraph 25.

8.

Defendant Lufkin admits the allegation in paragraph 27 of the First Amended Complaint.

9.

Defendant Lufkin denies the allegation in paragraph 28 that he lied; Defendant Lufkin has insufficient information to admit or deny the remaining allegations in paragraph 28 and therefore denies the same.

10.

In response to paragraph 29, Defendant Lufkin admits the allegation that deputy district attorney John Copic was assigned to prosecute Plaintiff in case number 15CR26017 for possession of heroin and delivery of heroin. Defendant Lufkin denies the allegation that Copic attempted to get Plaintiff to agree to a long prison sentence. Defendant Lufkin lacks sufficient information to admit or deny the remaining allegations in paragraph 29 and therefore denies the same.

11.

Defendant Lufkin admits the allegation in paragraph 31 that DDA Copic sent an email or emails on April 25, 2016. Emails are written documents which speaks for themselves, and Defendant Lufkin denies all allegations inconsistent with that written document.

12.

Defendant Lufkin admits the allegation in paragraph 32 that DDA Copic signed a document titled Notice of Intent to Seek Upward Departure on April 26, 2016. The Notice of Intent to Seek Upward Departure is a written document which speaks for itself, and Defendant Lufkin denies all allegations inconsistent with that written document.

13.

Defendant Lufkin admits the allegation in paragraph 33 that Plaintiff accepted Copic's plea offer. Defendant Lufkin denies the characterization of Copic's plea offer as a "threat".

14.

Defendant Lufkin admits the allegation in paragraph 36 that the Multnomah County District Attorney's Office informed Plaintiff that C.C. was alive. Defendant Lufkin lacks sufficient information to admit or deny the remaining allegations and therefore denies the same.

15.

Defendant Lufkin admits the allegation in paragraph 37 of the First Amended Complaint.

16.

Defendant Lufkin admits the allegation in paragraph 38 that the court issued a Judgment of Dismissal on or about September 8, 2022. The Judgment of Dismissal is a written document which speaks for itself and Defendant Lufkin denies all allegations inconsistent with that written document.

17.

Defendant Lufkin denies the allegations in paragraph 39.

18.

Defendant Lufkin realleges and incorporates by reference his responses in response to paragraphs 40, 47, 59.

19.

Defendant Lufkin denies the allegations in paragraphs 41-44.

20.

Defendant Lufkin admits the allegation in paragraph 45 that the court issued a Judgment of Dismissal. The Judgment of Dismissal is a written document which speaks for itself and Defendant Lufkin denies all allegations inconsistent with that written document.

21.

Defendant Lufkin denies the allegations in paragraphs 46, 48-52.

22.

The allegations in paragraphs 53-58 do not pertain to Defendant Lufkin and therefore a response is not required. To the extent a response is required, Defendant Lufkin denies.

23.

Defendant Lufkin denies the allegations in paragraphs 60-64.

24.

The prayer for relief on page 11 of Plaintiff's Amended Complaint does not require a response from Defendant Lufkin. To the extent a response is required, Defendant Lufkin denies.

First Affirmative Defense

Failure to State a Claim Upon Which Relief Can Be Granted

25.

Defendant Lufkin incorporates herein the admissions, denials, and allegations set forth above.

26.

Plaintiff fails to state a claim upon which this Court can grant relief under one or more theories set forth in the First Amended Complaint against Defendant Lufkin.

Second Affirmative Defense

Absolute Immunity

27.

Defendant Lufkin incorporates herein the admissions, denials, and allegations set forth above.

28.

Defendant Lufkin is entitled to absolute immunity for performing actions required to carry out the functions of the prosecutorial role.

Third Affirmative Defense

Qualified Immunity

29.

Defendant Lufkin incorporates herein the admissions, denials, and allegations set forth above.

30.

Defendant Lufkin alleges that, at all times relevant to Plaintiff's First Amended Complaint, he was acting in good faith and within his discretion pursuant to the laws and statutes of the State of Oregon and the United States, and that his conduct violated no clearly established statutory or constitutional rights of which a reasonable official would have knowledge.

Fourth Affirmative Defense

Oregon Tort Claims Act

31.

Defendant Lufkin incorporates herein the admissions, denials, and allegations set forth above.

32.

Defendant Lufkin alleges that Plaintiff's First Amended Complaint is subject to the provisions of the Oregon Tort Claims Act and asserts all provisions of the Oregon Tort Claims Act.

Fifth Affirmative Defense

Statute of Limitations

33.

Defendant Lufkin incorporates herein the admissions, denials, and allegations set forth above.

34.

Defendant Lufkin alleges that Plaintiff's First Amended Complaint was not commenced within the time limited by ORS 12.110 and ORS 30.275.

Sixth Affirmative Defense

Eleventh Amendment Immunity

35.

Defendant Lufkin incorporates herein the admissions, denials, and allegations set forth above.

36.

Defendant Lufkin, to the extent that he is sued in his official capacity, alleges that he is immune from suit in federal court and protected under Eleventh Amendment immunity. *Ford Motor Co. v. Department of Treasury*, 323 U.S. 459, 462 (1945), *overruled in part on other grounds*, *Lapides v. Bd. Of Regents*, 535 U.S. 613, 623 (2002). Under the Oregon Tort Claims Act, in regard to any claims brought against employees or agents acting in their official capacity or under state law, the State will be substituted for individually named parties acting within the course and scope of their employment. Or. Rev. Stat. § 30.265. That results in the State of Oregon being sued in federal court, and Defendant Lufkin is thus immune from state law claims in this suit.

Seventh Affirmative Defense

Claim and Issue Preclusion

37.

Defendant Lufkin incorporates herein the admissions, denials, and allegations set forth above.

38.

“Claim preclusion prohibits a party from relitigating a cause of action against the same defendant [or those in privity with that defendant] involving the same factual transaction as was litigated in the previous adjudication.” *Shuler v Distribution Trucking Co.*, 164 Or. App. 615, 621, 994 P.2d 167 (1999). The doctrine of collateral estoppel or, issue preclusion, precludes future litigation “once a court decides an issue of fact or law necessary to its judgment, that decision precludes relitigation of the same issue on a different cause of action between the parties.” *Kremer v Chemical Constr. Corp.*, 456 U.S. 461, 467 n. 6 (1982). Defendant Lufkin asserts that, to the extent Plaintiff’s claims have been litigated in previous cases, they should be dismissed.

Jury Demand

39.

Defendant Lufkin demands a jury trial pursuant to Fed. R. Civ. P. 38(b).

40.

Defendant Lufkin reserves the right to assert additional defenses as may become known to him throughout investigation and discovery.

WHEREFORE, having fully answered Plaintiff's Amended Complaint Defendant Lufkin prays for judgment herein denying Plaintiff relief and granting Defendant Lufkin his costs, disbursements, and attorney fees incurred in the defense hereof.

DATED October 7, 2024.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General

s/ Michelle Enfield
MICHELLE ENFIELD #152293
Senior Assistant Attorney General
Trial Attorney
Tel (503) 947-4700
Fax (503) 947-4791
michelle.enfield@doj.oregon.gov
Of Attorneys for Defendant Ryan Lufkin

CERTIFICATE OF SERVICE

I certify that on October 7, 2024, I served the foregoing DEFENDANT RYAN LUFKIN'S ANSWER AND AFFIRMATIVE DEFENSES TO FIRST AMENDED COMPLAINT upon the parties hereto by the method indicated below, and addressed to the following:

J Ashlee Albies
Maya Rinta
Albies, Stark & Guerriero
1500 SW First Ave., Suite 1000
Portland, OR 97201
Of Attorneys for Plaintiff

☐ HAND DELIVERY
☐ MAIL DELIVERY
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
☐ E-MAIL
☒ E-SERVE

Mike Porter
Portland Office of the City Attorney
1221 SW Fourth Avenue, Room 430
Portland, OR 97204
Of Attorneys for Defendant Thurman

☐ HAND DELIVERY
☐ MAIL DELIVERY
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
☒ E-MAIL
☐ E-SERVE

s/ Michelle Enfield
MICHELLE ENFIELD #152293
Senior Assistant Attorney General
Trial Attorney
Tel (503) 947-4700
Fax (503) 947-4791
michelle.enfield@doj.oregon.gov
Of Attorneys for Defendant Ryan Lufkin